

JEFFERSON COUNTY COMMISSIONERS  
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TOM LYTHGOE, CHAIR

DAVE KIRSCH

LEONARD WORTMAN

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**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
April 20, 2010**

**Present:** Commissioners Lythgoe and Wortman; Harold Stepper, County Planner; Matt Johnson, County Attorney; Tara Mastel and Tom Harrington, JLDC; Tony Prothero, Intermountain Consulting Engineers; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; James Kehr, Dustin Farnum, Carolyn Lewis, Lynn Price, Linda Norden, James and Dixie Rennie, Debbie Rennie, Sam Samson, Barb Sunderland, Deb Hanneman, Sue Pullman, Chuck Wideman, John Kountz, Clint Rieder, Heath Rieder, Larrey Lattin, Chris Hiltz, Dave and Alice Rieder, Doug Salsbury

**Absent:** Commissioner Kirsch

**MINUTES**

Commissioner Lythgoe moved to adopt the minutes of April 13. Commissioner Wortman seconded. The motion carried.

**CORRESPONDENCE**

Commissioner Lythgoe noted the receipt of right-of-way relocation documents for Dunn Lane. These have been prepared by Great West Engineering and proofed by the County Attorney. The documents have been signed and will be returned to the Clerk and Recorder's office.

**CALENDAR REVIEW**

4/20 Solid Waste Board - 6:00  
4/21 JLDC Ad Hoc Committee - 8:00  
View road with Road Supervisor - 10:00  
4/23 South metal mines grant committee - 8:30

## **COMMISSION REPORTS**

### **MONTANA TUNNELS**

Commissioner Lythgoe reported that he attended a meeting at Montana Tunnels with the managers and interested potential financial backers. They also came down and met at the Elkhorn office.

### **COMMUNITY CHANGE PUBLIC MEETING**

Commissioner Wortman reported that he attended a public meeting in Whitehall on the 13<sup>th</sup> facilitated by the Community Change group. The guest speaker talked about DUI laws and gave an excellent presentation. A good discussion followed.

### **ICS TRAINING**

Commissioner Wortman reported that he and Commissioner Kirsch attended incident command training with Sally Buckles.

### **JEFFERSON RIVER DIKE REPAIR**

Commissioner Wortman reported that he attended a meeting in Whitehall on the 14<sup>th</sup> regarding the dike on the Jefferson River. They discussed the best way to do the repairs. A joint meeting with Madison County is in the works.

### **HIGHWAY 69 UPGRADE**

Commissioner Wortman reported that he and Commissioner Lythgoe attended a meeting at MDT regarding the upgrades to Highway 69. Representatives from all of the agencies involved in the project were in attendance. They went over the project on paper in the morning and in the afternoon they reviewed the project on site. There was discussion of a bike/ped path, and MDT seems positive about incorporating this into their design, at least to Hubbard Lane or the Hot Springs. MDT will need to replace the bridge during the project, but putting in a detour will be very difficult. Commissioner Wortman said that he suggested that the money that is earmarked for the detour be used to make upgrades to Upper Valley Road. Commissioner Lythgoe said that when they talked about the bike/ped path, they talked pretty seriously about going to the Hot Springs and having a crosswalk at Hubbard Lane. Harold Stepper, County Planner, asked if there was any discussion about running sewer and water under the road towards the fairgrounds. Commissioner Wortman said that they didn't. Commissioner Lythgoe noted that it wouldn't be cost prohibitive to run conduit under the road while it is torn up. Carolyn Lewis asked if speed limits were discussed. Commissioner Lythgoe said that the speed limit won't be changed; there have been several speed studies done, all with the same outcome.

## **SUBDIVISION REVIEW**

### **PRELIMINARY PLAT REVIEW - BRIDGE CONCERT VENUE AND CAMPGROUND**

Harold Stepper, County Planner, presented his staff report for the venue used for the Rockin' the Rivers and Headwaters Country Jam concerts. According to the subdivision regulations, a campground needs to be reviewed under the section designed for rent or lease. The site features

1,259 campsites. Harold recommended that preliminary plat approval be granted.

Commissioner Wortman asked about the solid waste tipping fees and if they are paid in advance based on past usage or billed after the concerts. Harold said that the tipping fees are billed to the contractor and then the contractor bills the developer.

Commissioner Lythgoe moved to grant preliminary plat approval. Commissioner Wortman seconded. The motion carried.

## **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

### **DISCUSS AND DECIDE ON REQUEST FOR ZONING VARIANCE TO LOT SIZE**

Harold Stepper, County Planner, presented his staff report regarding the variance request. Jim Kehr, one of those making the request, presented a drawing of the area and explained why the variance is being requested. The property contains 3.34 acres in the Kehr property and 1.8 acres in the Zderick property. It is proposed to do a boundary relocation with both properties to create two lots containing approximately 2.5 acres. The remaining approximate of .8 acres would be relocated into the 1.43 Stuborg property. The property is located in the Residential Medium Density zoning district. None of the lots meet the minimum lot size of 5.00 acres. It was noted that most of the lots in the area are 3.5 acres and under due to a previous family conveyance which is exempt from the minimum 5 acre lot size in the zoning regulations.

Harold recommended that the variance request be granted. Commissioner Lythgoe asked Dr. Kehr how large his lot would be. Dr. Kehr said that they haven't had the parcels surveyed yet; they were waiting for a preliminary approval before they spent the money.

Commissioner Lythgoe moved to grant the variance. Commissioner Wortman seconded. The motion carried.

### **DISCUSS AND DECIDE ON LETTER OF SUPPORT FOR BIKE/PEDESTRIAN PATH ON HIGHWAY 69**

Commissioner Lythgoe stated that as MDT is willing to consider the inclusion of a walking path in their design, he feels that it would be appropriate to send a letter from the Commission stating that we appreciate their consideration. Carolyn Lewis asked if the Commission is aware that the deadline for comments is the 24<sup>th</sup>. Commissioner Lythgoe assured her that the letter could be sent in time. Carolyn stated that the group is also working to get a path constructed from town to the fairgrounds and they have been in contact with CTEP to see if they can get funding through that program. Commissioner Lythgoe said that the problem with CTEP is that they county has been trying to get a project in Whitehall for years but it keeps falling through. The monies are still committed to Whitehall however. CTEP does like to see these trails projects.

Commissioner Lythgoe said that he has a problem with writing a letter supporting a trail all the way to the Elkhorn turn-off as he doesn't feel that it would be feasible. Commissioner Wortman said that he would prefer to write the letter asking that they look at the option of going all the

way to the Elkhorn turn-off; they don't think that it would take a lot more right-of-way than they are currently using. Sam Samson said that he doesn't think that the county has anything to lose by asking for everything.

Commissioner Lythgoe moved to write a letter of support for the walking trail extending to the Elkhorn turn-off. Commissioner Wortman seconded. The motion carried.

#### DISCUSS AND DECIDE ON JLDC PURCHASE OF SOUTH CAMPUS

Tara Mastel, JLDC Manager, presented the Commission with the buy-sell documents. She stated that ten years ago the JLDC entered a lease with purchase option contract with the Commission. The JLDC would like to exercise their option to purchase the south campus at this time. The price that was determined by an appraisal by the State of Montana was \$13,510, but this reflected the buildings being razed. The JLDC has spent \$1.3 million to develop buildings 7 and 8 that are currently being leased by Youth Dynamics. A 2006 appraisal came in at \$832,000 for the buildings. Income from the lease to Youth Dynamics is approximately \$54,000 a year. Tara stated that they have \$368,000 obligated to CDBG, a 208,000 loan from the HUD grant to the south campus renovation that they need to repay and a \$655,000 obligation the Economic Development Administration. She noted that the EDA loan will roll over into a grant after a certain period of time. The JLDC would like to execute the buy-sell agreement at this time.

Commissioner Lythgoe asked if Matt has seen the buy-sell documents. Matt stated that the document was drafted by his office. Commissioner Lythgoe asked what will happen to the owed amounts if the JLDC does not purchase the property. Tara stated that they will continue with their obligations. She noted that they have someone interested in purchasing buildings seven and eight. Commissioner Lythgoe asked what would happen with the EDA loan if they purchase the south campus and then sell two of the buildings. Tara said that they would have to get approval from the EDA before they could sell the buildings. Tara noted that if any of the buildings are sold twenty percent of the purchase price would go into the economic development fund to further economic development in Jefferson County. Harold asked if anyone recalls if this was a 361 transfer. Commissioner Lythgoe said that this happened before his time. It was always the intent of the Commission that this happen.

Commissioner Lythgoe moved to enter into the buy-sell agreement with the JLDC for the purchase of the south campus properties. Commissioner Wortman seconded. The motion carried.

#### DISCUSS MOUNTAIN STATES TRANSMISSION INTERTIE PROJECT

Commissioner Wortman stated that he is new to this process so he wanted to put this on the agenda so they could discuss the issue and hear public input. He has talked to Tom Ring at DEQ, and it sounds like they are going to go through Jefferson County in one of two proposed main alternate routes. One of the big problems with following the existing line is that the lines have to be 2200 feet apart. The majority of the proposed line is to be on public lands, but not all of it. Commissioner Lythgoe asked if Tom Ring indicated a preferred route when they spoke. Commissioner Wortman said that he didn't.

Commissioner Wortman said that a couple of questions he has is that DEQ is supposed to consider the public good; he asked what good this will bring to the residents of Montana. He was told that they need to consider this interstate, not just in Montana. He asked if Montana rate payers would have to pay for the line. The answer to this was initially no, but now it is maybe.

Dave Reider said that he was involved when the power lines went in 27 years ago. They were told at that time that this was the corridor, now they are saying that they will need to have 2200 feet of separation. He said that when they pay you to go through your land, they pay you for 200 feet on either side of the line. Also, the landowners in the subdivision weren't told not to build where they did. This line needs to go through public domain. He feels that they were under-compensated and suggested that getting royalties would be a better way to go. The existing line has permanently scarred the land and the valley will be permanently scarred. Dave said that our rights are largely overlooked; he doesn't understand why DEQ doesn't have a public meeting.

Carolyn Lewis said that she is a member of the Elkhorn Working Group. The group wrote a letter stating that they are opposed to the proposed route that parallels the existing route and suggested that the farthest eastern route, that doesn't go through the Pullman's land be used. Deb Hanneman noted that is the route that would go right through her property. Commissioner Lythgoe said that this is part of the problem; no matter where they put the line, and why the Commission won't be recommending a route, it will be on someone's land.

Chuck Wideman said that a letter stated that 80% of the transmission line would be on private property, but the entire county is at risk. There has been no assessment from DEQ, the BLM or Forest Service. He would like to propose that the Commission go by coordinating status and work with everyone and decide what is the best route. If the Commission adopts a resolution invoking coordination with the federal agencies, they can force the issue. Commissioner Lythgoe noted that the Commission has already adopted a resolution regarding coordination. The Commission has been trying to get the Forest Service, BLM and DEQ to comply as by federal mandate they are supposed to coordinate with the Commission. John Kountz asked if the county has ever legally served notice on these agencies. Commissioner Lythgoe stated that the Commission has had the County Attorney contact the Forest Service and the BLM. The county has been trying to get the coordination to happen, but maybe they need to take legal steps. Matt stated that the county is working on the process; the Commission has adopted the resolution, had meetings with the Forest Service and the BLM, but one of the problems is that the Forest Service leadership is constantly changing.

John Kountz asked if the county will be getting taxes from the powerline. Commissioner Lythgoe said that the county would be getting taxes, possibly \$1.3 million/year. John questioned what the private property owners will get out of this.

Commissioner Wortman said that when he talked to Tom Ring, he was told that the EIS has been delayed and is due to be released in June. They will be having a meeting in Whitehall sometime during the first two weeks in July and the final EIS is due this fall.

Deb Hanneman said that regarding coordination, she has been talking with Leslie Kenny from Pony, who helps people with the coordination process. Her suggestion is to specifically tailor to the MSTI project to start the coordination process. If the county needs assistance, she will come and help. Deb said that she would like letters sent to specific agencies before the draft EIS is published. Commissioner Lythgoe asked what they are saying about the coordination process. Commissioner Wortman said that Tom Ring said that they are following the coordination process and have had two meetings with the Commission.

Doug Salsbury said that he would like to lend his support for the Commission to write letters asking for coordination. The proposed line will cross four miles of his property. The line should be on public lands for the public good. Commissioner Lythgoe said that if they, as a Commission, are looking at the good of the county, we will receive more tax dollars if the line is on public land. Commissioner Wortman said that of course the Commission is interested in the increase of tax dollars this would bring. It would be one thing if they lowered the rates to Montana residents because of the line, but if they raise rates because they can and make Montana residents pay for the line, that will be totally different. Commissioner Lythgoe said that the Commission can't do anything about the rates, but they can do something about the coordination status and help with the decision of where the line goes. John Kountz said that they also need to look at the long term effects in regards to the county.

Sue Pullman stated that coordination status would be beneficial and it would behoove the Commission to set up an advisory board. The coordination process will force the BLM and DEQ to sit down and discuss this with the county. NorthWestern Energy did what was legally required, but people were not informed about what this was all about. Once the coordination process is in place, they are bound to do it. Commissioner Lythgoe said that once again, the coordination agreement is with DEQ in this instance, not with NorthWestern Energy. He said that NorthWestern Energy coming to two Commission meetings does not meet the requirements of coordination. We need to get the legal department involved. Matt noted that they have discussed setting up an advisory committee in the past. Commissioner Lythgoe agreed that this is an important step, but we need to put DEQ and the BLM on notice.

Larrey Lattin said that some of the people at this meeting were involved with the Bonneville Power fight. Montana Power enlisted Bonneville so they could use the federal hammer. NorthWestern Energy is of the same bent; they are going to try to shove this down our throats. The NorthWestern Energy representative has been quoted as saying that they need the new line to handle the wind generation; this is B.S. This new line is not needed.

Dick Rennie said that the original Bonneville line was going to go right through the upper valley, there was no subdivision there at the time, but the residents protested this so much that they agreed to move it. We can effect change.

Debbie Rennie stated that part of the problem with NorthWestern Energy is that they haven't given the landowners enough information. Some landowners didn't know that a proposed route crossed their land until they got to a meeting. She noted that these transmission lines can affect

cattle and there are water and safety issues to consider as well.

Commissioner Lythgoe stated that the tax implications have never been an issue with this Commission. What he feel needs to happen is that the advisory group needs to be formed.

Commissioner Wortman moved to direct Matt to send letters to the appropriate agencies to start the coordination process. Commissioner Lythgoe seconded. The motion carried.

Commissioner Lythgoe moved to pursue taking applications from people to serve on a coordination committee specific to the MSTI project. Commissioner Wortman seconded. The motion carried.

Commissioner Lythgoe moved to adjourn. Commissioner Wortman seconded. The motion carried.

## **MEETING ADJOURNED**

### **ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**DAVE KIRSCH, COMMISSIONER**

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**LEONARD WORTMAN, COMMISSIONER**